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**LEGISLATIVE RESEARCH COMMISSION**

State Capitol 700 Capital Avenue Frankfort KY 40601

502-564-8100

Capitol Fax 502-564-2922

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**MEMORANDUM**

TO: Chris Ewing, Environmental Scientist, Division for Air Quality

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 401 KAR 061:036

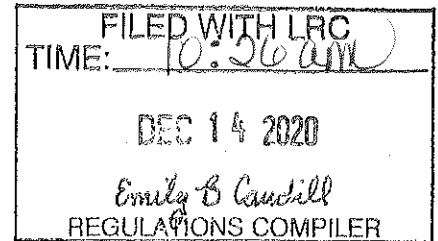
DATE: December 14, 2020

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **March 2021** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on March 15, 2021**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures



1 ENERGY AND ENVIRONMENT CABINET

2 DEPARTMENT FOR ENVIRONMENTAL PROTECTION

3 Division for Air Quality

4 (Amendment)

5 401 KAR 61:036. Emission guidelines and compliance times for municipal solid waste (MSW)  
6 landfills.

7 RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. Part 60  
8 Subpart Cf [60.30e-60.36e], 42 U.S.C. 7411(d)

9 STATUTORY AUTHORITY: KRS 224.10-100, 224.20-110, 224.20-120, [60.30e-60.36e,  
10 42 U.S.C. 7411(d)]

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) authorizes  
12 [~~requires~~] the [~~Environmental and Public Protection~~] cabinet to promulgate[~~prescribe~~]  
13 administrative regulations for the prevention, abatement, and control of air pollution. [~~The federal~~  
14 ~~regulation incorporated by reference in~~] This administrative regulation provides for the control of  
15 emissions from existing municipal solid waste (MSW) landfills.

16 Section 1. Definitions. (1) Except as established in this section, terms used in this  
17 administrative regulation shall have the meaning established in 40 C.F.R 60.41f, as published July  
18 1, 2020.

19 (2) “Administrator” means the Secretary of the Energy and Environment Cabinet unless a  
20 specific provision of 40 C.F.R. Part 60, Subpart Cf states that the United States Environmental  
21 Protection Agency retains authority.

1           (3) “Affected facility” means each MSW landfill.

2           (4) “Classification date” means July 17, 2014.

3           Section 2. Applicability. This administrative regulation shall apply to each affected facility  
4 that commenced construction, modification, or reconstruction on or before the classification date  
5 as defined in Section 1 of this administrative regulation.

6           Section 3. Compliance Requirements. (1) An owner or operator of an affected facility shall  
7 comply with:

8           (2) 40 C.F.R. 60.31f, Designated Facilities, as published July 1, 2020;

9           (3) 40 C.F.R. 60.32f, Compliance Times, as published July 1, 2020;

10           (4) 40 C.F.R. 60.33f, Emission Guidelines for Municipal Solid Waste Landfill Emissions,  
11 as published July 1, 2020;

12           (5) 40 C.F.R. 60.34f, Operational Standards for Collection and Control Systems, as  
13 published July 1, 2020;

14           (6) 40 C.F.R. 60.35f, Test Methods and Procedures, as published July 1, 2020;

15           (7) 40 C.F.R. 60.36f, Compliance Provisions, as published July 1, 2020;

16           (8) 40 C.F.R. 60.37f, Monitoring of Operations, as published July 1, 2020;

17           (9) 40 C.F.R. 60.38f, Reporting Guidelines, as published July 1, 2020;

18           (10) 40 C.F.R. 60.39f, Recordkeeping Guidelines, as published July 1, 2020; and

19           (11) 40 C.F.R. 60.40f, Specifications for Active Collection Systems, as published July 1,  
20 2020.

21           Section 4. A source shall submit a copy of all documentation required to be submitted to  
22 U.S. EPA pursuant to this administrative regulation to the cabinet.

1 [Incorporation by Reference. ~~(1) 40 C.F.R. 60.30c to 60.36c, (40 C.F.R. 60, Subpart Cc),~~  
2 ~~Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, as published in~~  
3 ~~the Code of Federal Regulations, Title 40, Part 60, July 1, 1997, is incorporated by reference.~~

4 ~~(2) The material incorporated by reference may be obtained, inspected, or copied at the~~  
5 ~~following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:~~

6 ~~(a) Division for Air Quality, 300 Sower Boulevard, Frankfort, Kentucky 40601, (502) 564-~~  
7 ~~3999;~~

8 ~~(b) Ashland Regional Office, 1550 Wolohan Drive, Suite 1, Ashland, Kentucky 41102-~~  
9 ~~8942, (606) 929-5285;~~

10 ~~(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky~~  
11 ~~42104, (270) 746-7475;~~

12 ~~(d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence,~~  
13 ~~Kentucky 41042, (859) 525-4923;~~

14 ~~(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-~~  
15 ~~6022;~~

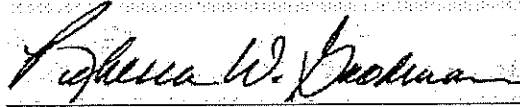
16 ~~(f) London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 330-~~  
17 ~~2080;~~

18 ~~(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro,~~  
19 ~~Kentucky 42303, (270) 687-7304; and~~

20 ~~(h) Paducah Regional Office, 130 Eagle Nest Drive, Paducah, Kentucky 42003, (270) 898-~~  
21 ~~8468~~

401 KAR 61:036 approved for filing

December 8, 2020  
Date

A handwritten signature in black ink, appearing to read "Rebecca W. Goodman", written over a horizontal dotted line.

Rebecca W. Goodman, Secretary  
Energy and Environment Cabinet

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A virtual public hearing on this administrative regulation amendment will be held on February 24, 2021, at 10:00 a.m. (Eastern Time). The public hearing can be accessed at the following website address: <https://global.gotomeeting.com/join/212720813> or can be accessed by phone: +1 (224) 501-3412 using access code 212-720-813. Please note that registration is required to participate in this hearing. You must either email your name and mailing address to [Christian.Ewing@ky.gov](mailto:Christian.Ewing@ky.gov) or mail this information to Christian Ewing, Division for Air Quality, 300 Sower Building, 2nd Floor, Frankfort, KY 40601. Please put "Registration for Municipal Solid Waste Landfills Public Hearing" as the subject line, and state in the body of the message if you plan to speak during the hearing. If no one registers to speak by February 16, 2021, then the hearing will be cancelled. Written comments shall be accepted until February 28, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation amendment to the contact person.

The amendment to this administrative regulation will be part of Kentucky's state plan required by 40 C.F.R. Part 60, Subparts Ba and Cf, pursuant to Section 111(d) of the Clean Air Act.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

### CONTACT PERSON:

Chris Ewing, Environmental Scientist  
Division for Air Quality  
300 Sower Blvd.  
Frankfort, KY 40601  
Phone: (502) 782-6604  
Fax: (502) 564-4245  
E-mail: [Christian.Ewing@ky.gov](mailto:Christian.Ewing@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 401 KAR 61:036

Contact person: Chris Ewing

Phone: (502) 782-6604

E-mail: Christian.Ewing@ky.gov

- (1) Provide a brief summary of:
  - (a) What this administrative regulation does: This administrative regulation amendment adopts the federal Emission Guidelines (EG) for Municipal Solid Waste (MSW) landfills.
  - (b) The necessity of this administrative regulation: This administrative regulation amendment is necessary to reduce methane and non-methane emissions from municipal solid waste landfills. This amendment is necessary to develop a state plan for existing MSW landfills.
  - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(5) authorizes the Energy and Environment Cabinet (Cabinet) to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation amendment will address Clean Air Act (CAA) Section 111(d) requirements for existing MSW landfills. This administrative regulation amendment reduces methane and non-methane emissions from existing MSW landfills. This administrative regulation amendment will be part of the Kentucky 111(d) MSW landfill plan.
  - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of KRS 224.10-100(5) by reducing methane and non-methane emissions from existing MSW landfills, resulting in the protection of human health and the environment. This administrative regulation amendment will address requirements for a CAA Section 111(d) plan.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
  - (a) How the amendment will change this existing administrative regulation: This amendment adopts the most recent emission guidelines for existing MSW landfills to be consistent with federal regulations.
  - (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to adopt the most recent federal emission guidelines for development of the state 111(d) plan.

- (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statute by adopting the federal emissions guidelines necessary for a state 111(d) plan for existing MSW landfills.
  - (d) How the amendment will assist in the effective administration of statutes: The amendment assists in the effective administration of the statutes by adopting the federal emissions guidelines for existing MSW landfills.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation.

This administrative regulation applies to existing MSW landfills for which construction, reconstruction, or modification was commenced on or before July 17, 2014. This includes 28 existing MSW landfills.

- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will comply with the most recent federal emission guidelines for existing MSW landfills.
  - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional costs to the regulated entities to comply with this amendment.
  - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, the sources will work with the state instead of US EPA.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: The Cabinet will not incur any additional costs for the implementation of this amendment initially.
  - (b) On a continuing basis: The Cabinet will not incur any additional costs for the implementation of this amendment on a continual basis.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Cabinet's current operating budget will be used for the implementation and enforcement of this amendment to this administrative regulation.



- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding is necessary to implement this amendment.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.
- (9) TIERING: Is tiering applied? (Explain why or why not) No. The requirements of this administrative regulation apply to each existing MSW landfill for which construction, reconstruction, or modification was commenced on or before July 17, 2014.

## FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

Administrative Regulation: 401 KAR 61:036

Contact person: Chris Ewing

Phone Number: (502) 782-6604

E-mail: Christian.Ewing@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?  
This administrative regulation amendment will affect owners and operators of the 28 existing MSW landfills in Kentucky.
2. Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative regulation.  
KRS 224.10-100(5), 224.20-110, 224.20-120, 42 U.S.C. 7411, and 40 C.F.R. Part 60, Subpart Cf Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the regulation is to be in effect.
  - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?  
The proposed administrative regulation will not generate revenue in the first year.
  - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?  
The proposed administrative regulation will not generate revenue in subsequent years.
  - (c) How much will it cost to administer this program for the first year?  
The Cabinet's current operating budget will be used to administer this program for the first year.
  - (d) How much will it cost to administer this program for subsequent years?  
The Cabinet's operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

## FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 401 KAR 61:036

Contact person: Chris Ewing

Phone: (502) 782-6604

E-mail: Christian.Ewing@ky.gov

1. Federal statute or regulation constituting the federal mandate.

The federal mandate for this administrative regulation amendment is in 40 CFR Part 60, Subpart Cf and Subpart Ba pursuant to Clean Air Act (CAA) Section 111.

2. State compliance standards.

This administrative regulation amendment adopts the federal standards for the control of methane and non-methane emissions from existing MSW landfills meeting the applicability provisions of the 40 CFR Part 60, Subpart Cf Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.

3. Minimum or uniform standards contained in the federal mandate.

The federal mandate requires states to revise their CAA 111(d) plans to reduce the emissions of methane and non-methane substances.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No. This administrative regulation establishes the same requirements as the federal requirement for existing MSW landfills and will impose no more stringent requirements than those required by 40 CFR Part 60, Subpart Cf.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

Stricter standards or additional or different responsibilities or requirements are not imposed.